

1 RAYMOND Clark
 2 C.D.C. #D-99370
 3 BOX #3471, 3C1-214-1
 4 Corcoran, CA 93212
 5 Pro-Se

RECEIVED

JUL - 7 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT CALIFORNIA

7 RAYMOND CLARK, PLAINTIFF }

8 vs. }

9 JOHN F. SHUCK, DEFENDANT }

CASE No. CV-08-2547 JW (PR)

JUDICIAL NOTICE

FED. R. EVID. Rule 201(d)

11 PLEASE TAKE NOTICE, that the Plaintiff in the above-case
 12 hereby moves this court to take its Judicial Notice of the
 13 following facts of record in the above-entitled cause of
 14 action, and to the following annexed exhibits Pursuant
 15 to the Federal Rules of Evidence, Rule 201(d), and Rule 60(b)
 16 (2), of the Federal Rules of Civil Procedure.

17 Rule 60(b)(2), F.R.C.P. Provides in Pertinent Part that:
 18 Newly discovered evidence which by due diligence cou-
 19 ld not have been discovered in time to move for Rule
 20 59(b) new trial relief.

21 Plaintiff has at all times and does now maintain he
 22 acted in accordance with the requisite due dilig-
 23 ence, and zeal incorporated by the federal rules
 24 of civil procedure.

25 Plaintiff filed the within action in May 2008, without
 26 the entire Informa Pauperis Package, due to misconduct
 27 of institution employ % Espiritu, willful failure to
 28 perform duty enjoined by law. Government Code § 1222.

1 institution trust accountant % Espiritu acting on the
 2 unconstitutional provisions of Title 15, Cal. Code of Regulations
 3 section 3405, which provides in pertinent part that:
 4 "Quote" Employees must not assist an inmate or Parolee in
 5 the preparation of any legal document, or give any
 6 form of legal advice or service. "Close Quote" A state
 7 Policy of the department of Corrections that impedes
 8 access to the courts... In violation of § 20, of the Criminal
 9 Code, title 18 U.S.C. § 242, United States v. Classic, 313
 10 U.S. 299.

11 % Espiritu willful omission to complete and return the
 12 Plaintiff's Informa Pauperis Trust Account Statement, Impelled
 13 him to proceed on motion and affidavit of indigency
 14 as a matter of duress and the need for expedited Judi-
 15 cial Process, which is still imminent.

16 As a matter of P.L.R.A. directives the Informa Pauperis
 17 filing was denied due to the omission in MAY 2008, and
 18 the court issue another Informa Pauperis 28 U.S.C. § 1915
 19 Package which is appended and made Part of this
 20 Judicial notice and incorporated by reference by
 21 F.R. Civ.P. Rule 10(c), see Exhibit #1.

22 % Espiritu, intentionally invoke C.C.R. § 3405, and
 23 refused to complete and return Plaintiff 28 U.S.C. § 1915
 24 Informa Pauperis Package in a timely manner. Please be
 25 advised that % Espiritu was informed and advised by
 26 "602" on June 4, 2008, that the court set a dead-
 27 line for the filing of the 28 U.S.C. § 1915 Package and
 28 willfully failed to complete document once more.

1 WHEREAS, due to the subsequent omission of % Espinoza,
 2 and court ordered time constraints Plaintiff of necessity
 3 filed Ex Parte Motion to Proceed In Forma Pauperis on
 4 June 4, 2008, under local rule 3-10 (a)(b)(2)(3) of The
 5 Northern District Court Rules.

6 When Plaintiff received no response to L-R*3-10 mo-
 7 tion, on June 30, 2008, Plaintiff mailed a Rule 60(b)
 8 Motion for relief for other misconduct of an adverse
 9 Party requesting under Rule 19(a) that % Espinoza be
 10 enjoined as a defendant and made a Party to the action
 11 for conspiring with defendant Schuck to deny Plaintiff
 12 access to the court in this instant matter.

13 Approximately Two (2) hours after Plaintiff mailed
 14 the above-referenced Rule 60(b) motion, institution
 15 staff delivered the belated 28 U.S.C. § 1915 In Forma
 16 Pauperis Package from N-K-S-P. Trust Account Employee %
 17 Espinoza. Appended herein as Exhibit "1".

18 WHEREFORE, Plaintiff request that the Enter the Exhibit "1"
 19 NUNC PRO TUNC, as of this 1st day of July 2008, in
 20 Case NO. CV-08-2547 JW (PR). Grant Permission to now
 21 Proceed as a Poor Person Per 28 U.S.C. § 1915, without
 22 Pre-Payment of fees associated therein, issue an order
 23 permitting the U.S. Marshall to Serve defendant Schuck on
 24 Behalf of the Incarcerate Plaintiff appear Pro-Se in Forma
 25 Pauperis.

26 I declare that the foregoing is true and correct under Penalty of Perjury
 27 Date: July 1, 2008

Respectfully Submitted
 151. Raymond Clark
 Plaintiff

ACCT
E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Raymond Clark

Plaintiff,

vs.

John F. Schuck

Defendant.

CASE NO. 2547

**PRISONER'S
APPLICATION TO PROCEED
IN FORMA PAUPERIS**

JW

I, Raymond Clark, declare, under penalty of perjury that I am the **(PR)** plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes ☐ No ☒

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: _____ Net: _____

Employer: _____

EXHIBIT #1

1 If the answer is "no," state the date of last employment and the amount of the gross and net
 2 salary and wages per month which you received. (If you are imprisoned, specify the last
 3 place of employment prior to imprisonment.)
 4 _____
 5 _____
 6 _____

7 2. Have you received, within the past twelve (12) months, any money from any of the
 8 following sources:

9 a. Business, Profession or Yes ____ No X
 10 self employment

11 b. Income from stocks, bonds, Yes ____ No X
 12 or royalties?

13 c. Rent payments? Yes ____ No X

14 d. Pensions, annuities, or Yes ____ No X
 15 life insurance payments?

16 e. Federal or State welfare payments, Yes ____ No X
 17 Social Security or other govern-
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount
 20 received from each.
 21 _____
 22 _____

23 3. Are you married? Yes ____ No X

24 Spouse's Full Name: _____

25 Spouse's Place of Employment: _____

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ _____ Net \$ _____

28 4. a. List amount you contribute to your spouse's support: \$ 11-4

- 1 b. List the persons other than your spouse who are dependent upon you for
 2 support and indicate how much you contribute toward their support. (NOTE:
 3 For minor children, list only their initials and ages. DO NOT INCLUDE
 4 THEIR NAMES.).

5 None
 6 _____

7 5. Do you own or are you buying a home? Yes ____ No X

8 Estimated Market Value: \$ _____ Amount of Mortgage: \$ _____

9 6. Do you own an automobile? Yes ____ No X

10 Make _____ Year _____ Model _____

11 Is it financed? Yes ____ No ____ If so, Total due: \$ _____

12 Monthly Payment: \$ _____

13 7. Do you have a bank account? Yes ____ No X (Do not include account numbers.)

14 Name(s) and address(es) of bank: _____

15 _____

16 Present balance(s): \$ _____

17 Do you own any cash? Yes ____ No X Amount: \$ _____

18 Do you have any other assets? (If "yes," provide a description of each asset and its estimated
 19 market value.) Yes ____ No X

20 _____

21 8. What are your monthly expenses?

22 Rent: \$ 0 Utilities: 0

23 Food: \$ 0 Clothing: _____

24 Charge Accounts:

25	<u>Name of Account</u>	<u>Monthly Payment</u>	<u>Total Owed on This Acct.</u>
26	<u>d</u>	\$ _____	\$ _____
27	<u>o</u>	\$ _____	\$ _____
28	<u>c</u>	\$ _____	\$ _____

9. Do you have any other debts? (List current obligations, indicating amounts and to whom they are payable. Do not include account numbers.)

Restitution

10. Does the complaint which you are seeking to file raise claims that have been presented in other lawsuits? Yes ___ No X

Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in which they were filed.

I consent to prison officials withdrawing from my trust account and paying to the court the initial partial filing fee and all installment payments required by the court.

I declare under the penalty of perjury that the foregoing is true and correct and understand that a false statement herein may result in the dismissal of my claims.

5-28-08

DATE

Raymond Clark

SIGNATURE OF APPLICANT

Case Number: 08 2547 JW (PR)

CERTIFICATE OF FUNDS
IN
PRISONER'S ACCOUNT

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of Raymond Clark for the last six months
[prisoner name]
North Kern State Prison where (s)he is confined.
[name of institution]

I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$.02 and the average balance in the prisoner's account each month for the most recent 6-month period was \$ 0.

Dated: 6-23-08

[Signature]
[Authorized officer of the institution]

REPORT ID: TS3030 .701

REPORT DATE: 06/24/08

PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
 NORTH KERN STATE PRISON
 INMATE TRUST ACCOUNTING SYSTEM
 INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2008 THRU JUN. 24, 2008

ACCOUNT NUMBER : D99370

BED/CELL NUMBER:

ACCOUNT NAME : CLARK, RAYMOND

ACCOUNT TYPE: T

PRIVILEGE GROUP:

TRUST ACCOUNT ACTIVITY

TRAN

DATE	CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
02/01/2008		BEGINNING BALANCE					0.00
02/22*DD30		CASH DEPOSIT	2483LAJAIL		0.02		0.02
02/27 W502		POSTAGE CHARG	2552/POSTA			0.02	0.00

* RESTITUTION ACCOUNT ACTIVITY

DATE SENTENCED: 07/30/90

CASE NUMBER: A987168

COUNTY CODE: LA

FINE AMOUNT: \$ 100.00

DATE	TRANS.	DESCRIPTION	TRANS. AMT.	BALANCE
02/01/2008		BEGINNING BALANCE		97.54
02/22/08	DR30	REST DED-CASH DEPOSIT	0.01-	97.53

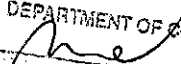
* THIS STATEMENT DOES NOT REFLECT THE ADMINISTRATIVE FEE CHARGE THAT *
 * IS EQUAL TO TEN PERCENT OF THE RESTITUTION AMOUNT COLLECTED. *

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	0.02	0.02	0.00	0.00	0.00

CURRENT
AVAILABLE
BALANCE

0.00

THE WITHIN INSTRUMENT IS A CORRECT
 COPY OF THE TRUST ACCOUNT MAINTAINED
 BY THIS OFFICE.
 ATTEST:
 CALIFORNIA DEPARTMENT OF CORRECTIONS
 BY 

REPORT ID: TS3030 .701

REPORT DATE: 06/24/08

CALIFORNIA DEPARTMENT OF CORRECTIONS

NORTH KERN STATE PRISON

INMATE TRUST ACCOUNTING SYSTEM

INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: FEB. 01, 2008 THRU JUN. 24, 2008

TOTAL NUMBER OF STATEMENTS PRINTED: 1

TOTAL CURRENT BALANCE FOR ALL THE STATEMENTS: 0.00

PROOF OF SERVICE BY MAIL

I, Raymond Clark, declare That I am the Plaintiff To the Within action, and that I Served upon the Court A motion To Take JUDICIAL NOTICE UNDER RULE 201(d) F.R.E., By Placing the Same in an envelope with first-class Postage Pre-Paid addressed as follows:

UNITED STATES DISTRICT COURT
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CA 94102

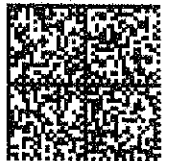
Executed on the 1st day of July 2008, in
Concoran, CALIFORNIA 93212

Respectfully Submitted
1st Raymond Clark
Plaintiff-Declarant

CSP, NORTH KERN ACCOUNTING
2737 W. Cech Ave.
P.O. BOX 567
Delano, Ca. 93216-0567

~~3001-2144~~

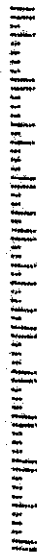
Clark, Raymond D99370
CSP- Carson
P.O. Box 8800,
Carson, CA 93812



UNITED STATES POSTAGE
FINEY BOWLES
\$ 00.590
02 1M
0004224385
JUN 24 2008
MAILED FROM ZIP CODE 93115

C1-2144

5021288800 8500



2002

US POSTAGE

92012

06/09/2008

\$00.00

016H26504185

Master